

**IN THE UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF TEXAS
HOUSTON DIVISION**

Maria Palacios and Hidalia Palacios,
Individually and as Next Friend of
P.M., N.M. and G.M, Minor Children

Plaintiffs,

Vs.

Hofer AG Logistics, LLC and
Mart G. Halbert, III

Defendants,

§ § § § §

Case No. _____

NOTICE OF REMOVAL

Defendants Mart G. Halbert III (Incorrectly named as Mark G. Halbert III) and Hofer AG Logistics, LLC hereby remove Cause No. 2017-01157 from the 133rd District Court of Harris County, Texas to the United States District Court for the Southern District of Texas.

Background

1. On January 6, 2017, Plaintiffs Maria Palacios and Hitalia Palacios, Individually and as Next Friend of P.M., N.M., and G.M. (“Plaintiffs”) filed a Petition in the 133rd Judicial District Court of Harris County, Texas against Mart G. Halbert III (Incorrectly named as Mark G. Halbert III) and Hofer AG Logistics, LLC, in Cause No. 2017-01157 (the “State Court Action”). A copy of the Petition is included within the Appendix.

2. Mr. Halbert received the Petition on February 2, 2017.

3. Hofer received the Petition on January 30, 2017.

4. The Petition purports to assert two causes of action including: (1) negligence and (2) negligence per se. *See* Petition at 4-5.

5. Plaintiff seeks relief in the form of actual damages, mental anguish damages, and damages for pain and suffering. *See* Petition at 6-7.

Diversity Jurisdiction Under 28 U.S.C. § 1332(a)

6. This Court has jurisdiction over this matter under 28 U.S.C. § 1332(a) because there is complete diversity of citizenship between Plaintiffs and Defendants and more than \$75,000, exclusive of interest and costs, is at stake.

7. Plaintiff Maria Palacios alleges that she is a resident of Harris County, Texas. *See* Petition at 1.

8. Plaintiff Hidalia Palacios, Individually and as Next Friend of P.M., N.M. and G.M., alleges that they are residents of Harris County, Texas. *See* Petition at 1.

9. Defendant Mart G. Halbert III (Incorrectly named as Mark G. Halbert III) is an individual who resides in Eden, Sweetwater County, Wyoming. *See* Petition at 2.

10. Defendant, Hofer AG Logistics, LLC is a South Dakota corporation with its principal place of business in South Dakota. *See* Petition at 2. Therefore, there is complete diversity between Plaintiff and Defendant in this action.

11. Plaintiffs indicate that they seek damages greater than \$200,000 but less than \$1,000,000. It is apparent that the amount in controversy in this action exceeds the jurisdictional sum of \$75,000.00. 28 U.S.C. § 1332(a).

All Procedural Requirements for Removal Have Been Satisfied

12. Pursuant 28 U.S.C. § 1446(a) and Local Rule 81, a true and correct copy of all process, pleadings and orders from the State Court Action which have been served upon Defendants are being filed with this Notice of Removal in the Appendix.

13. This Notice of Removal has been filed within 30 days of the date that Defendant was served with the citation and Petition in this matter. Removal is therefore timely in accordance with 28 U.S.C. § 1446(b).

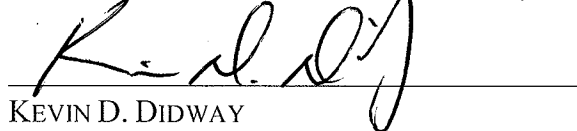
14. Venue is proper in this Court pursuant to 28 U.S.C. §§ 1441(a) and 1446(a) because the U.S. District Court for the Southern District of Texas is the federal judicial district embracing the District court of Harris County, Texas where the State Court Action was originally filed.

Conclusion

By this Notice of Removal, Defendants do not waive any objections it may have as to service, jurisdiction or venue, or any other defenses or objections it may have to this action. Defendant intends no admission of fact, law or liability by this Notice, and expressly reserves all defenses, motions and/or pleas.

Respectfully submitted,

TEKELL, BOOK, ALLEN & MORRIS, L.L.P.



KEVIN D. DIDWAY

SBN: 00787364

1221 McKinney, Suite 4300

Houston, TX 77010

713-222-9542

713-655-7727 (fax)

kdidway@tekellbook.com

**ATTORNEY FOR DEFENDANTS
HOFER AG LOGISTICS, LLC AND
MART G. HALBERT III**

CERTIFICATE OF SERVICE

I hereby certify that a true and correct copy of the foregoing instrument has been e-filed with the District Clerk of the Southern District of Texas, Houston Division and forwarded to all counsel of record by e-service notification, certified mail/return receipt requested, regular mail, hand delivery, and/or facsimile on this the 1st day of March, 2017.

BY EMAIL: litigation@mukerjilaw.com

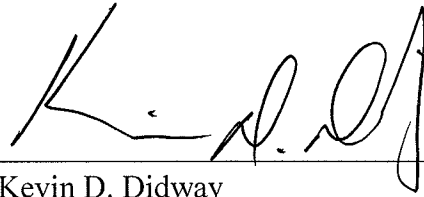
MUKERJI LAW FIRM

Sam K. Mukerji

Jonathan E. Bleyer

2405 Smith Street

Houston, TX 77006

A handwritten signature in black ink, appearing to read 'K. D. Didway', is written over a horizontal line.

Kevin D. Didway